

SCHEDULES

SCHEDULE 7

ADMINISTRATIVE JUSTICE AND TRIBUNALS COUNCIL

PART 2

FUNCTIONS

Introductory

- 12 The Council has the functions conferred on it by this Schedule or any other statutory provision.

Functions with respect to the administrative justice system

- 13 (1) The Council is to—
- (a) keep the administrative justice system under review,
 - (b) consider ways to make the system accessible, fair and efficient,
 - (c) advise the persons mentioned in sub-paragraph (2) on the development of the system,
 - (d) refer proposals for changes in the system to those persons, and
 - (e) make proposals for research into the system.
- (2) Those persons are—
- (a) the Lord Chancellor,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, and
 - (d) the Senior President of Tribunals.
- (3) The Council may make such reports as it considers appropriate on any of the matters mentioned in sub-paragraph (1).
- (4) In this paragraph “the administrative justice system” means the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including—
- (a) the procedures for making such decisions,
 - (b) the law under which such decisions are made, and
 - (c) the systems for resolving disputes and airing grievances in relation to such decisions.

General functions with respect to tribunals

- 14 (1) The Council is to—
- (a) keep under review, and report on, the constitution and working—

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- (i) of listed tribunals in general, and
 - (ii) of each listed tribunal,
 - (b) consider, and report on, any other matter—
 - (i) that relates to listed tribunals in general or to a particular listed tribunal, and
 - (ii) that the Council determines to be of special importance, and
 - (c) consider, and report on, any particular matter referred to the Council—
 - (i) that relates to tribunals in general or to any particular tribunal, and
 - (ii) whose referral to the Council falls within paragraph 16.
- (2) The Council may scrutinise and comment on legislation, existing or proposed, relating to tribunals or to any particular tribunal.
- (3) The Council must—
- (a) consult the Scottish Committee before exercising the power conferred by sub-paragraph (2) with respect to legislation, existing or proposed, that relates to at least one tribunal with jurisdiction in cases arising in Scotland;
 - (b) consult the Welsh Committee before exercising that power with respect to legislation, existing or proposed, that relates to at least one tribunal with jurisdiction in cases arising in Wales.
- (4) In sub-paragraphs (1)(c), (2) and (3)—
- “legislation” includes procedural rules;
 - “tribunal” includes a proposed tribunal.

General functions with respect to statutory inquiries

- 15 The Council is to—
- (a) keep under review, and report on, the constitution and working of statutory inquiries, both in general and by reference to statutory provisions under which statutory inquiries of different descriptions may be held,
 - (b) consider, and report on, any other matter—
 - (i) that relates to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) that the Council determines to be of special importance, and
 - (c) consider, and report on, any particular matter referred to the Council—
 - (i) that relates to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) whose referral to the Council falls within paragraph 16.

Referral of matters to the Council under paragraphs 14 and 15

- 16 (1) This paragraph has effect for the purposes of paragraphs 14(1)(c) and 15(c).
- (2) The referral of any matter falls within this paragraph if it is referred to the Council jointly by—
- (a) the Lord Chancellor,
 - (b) the Welsh Ministers, and
 - (c) the Scottish Ministers.
- (3) In addition—

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- (a) the referral of a matter that relates only to Wales falls within this paragraph if it is referred to the Council by the Welsh Ministers,
- (b) the referral of a matter that relates only to Scotland falls within this paragraph if it is referred to the Council by the Scottish Ministers, and
- (c) the referral of a matter that—
 - (i) does not relate to Scotland, and
 - (ii) if it relates to Wales, does not relate only to Wales,falls within this paragraph if it is referred to the Council by the Lord Chancellor.

Reports by the Council under paragraphs 14 and 15

- 17 (1) A report by the Council on a matter referred to it under paragraph 14(1)(c) or 15(c) must be made to the authority or authorities who referred the matter.
- (2) Any other report by the Council under paragraph 14 or 15—
- (a) must be made to the Lord Chancellor,
 - (b) if it relates to Wales, must be made also to the Welsh Ministers, and
 - (c) if it relates to Scotland, must be made also to the Scottish Ministers.
- (3) The Lord Chancellor must lay before each House of Parliament every report made by the Council to him under this paragraph, other than a report that relates only to matters within sub-paragraph (4).
- (4) Matters are within this sub-paragraph if legislation providing for them would be within the legislative competence of the Scottish Parliament if the legislation were included in an Act of that Parliament.
- (5) The Scottish Ministers must lay before the Scottish Parliament every report made by the Council to them under this paragraph.
- (6) The Welsh Ministers must lay before the National Assembly for Wales every report made by the Council to them under this paragraph.
- (7) Where—
- (a) a report is required by this paragraph to be made to one or more, but not all, of—
 - (i) the Lord Chancellor,
 - (ii) the Welsh Ministers, and
 - (iii) the Scottish Ministers, and
 - (b) the Council considers that the report could be relevant to matters that are the responsibility of another of those authorities,
- the Council must send a copy of the report to the other authority.

Referral of matters to, and reports by, the Scottish Committee

- 18 (1) The Council may not make a report on any matter relating only to Scotland until the Council—
- (a) has referred the matter of the report for consideration, and report to the Council, by the Scottish Committee, and
 - (b) has considered the report of the Committee.

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- (2) Where the Council proposes to make a report on a matter that relates to Scotland but not only to Scotland, the Council must give the Scottish Committee details of the matter.
- (3) The Scottish Committee may of its own motion make a report to the Council on any of the following matters so far as relating to Scotland—
- (a) any matter relating to the administrative justice system,
 - (b) the constitution or working—
 - (i) of listed tribunals in general or of a particular listed tribunal, or
 - (ii) of statutory inquiries in general or of statutory inquiries of a particular description,
 - (c) any other matter—
 - (i) that relates to listed tribunals in general, to a particular listed tribunal, to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) that the Scottish Committee determines to be of special importance, and
 - (d) any matter referred to the Council under paragraph 14(1)(c) or 15(c).
- (4) If—
- (a) the Council does not make a report on matters dealt with in a report made by the Scottish Committee under sub-paragraph (1) or (3), or
 - (b) in making a report on those matters, the Council does not adopt the report made by the Scottish Committee without modification,
- the Scottish Committee may submit its report to the Scottish Ministers.
- (5) Where the Scottish Committee—
- (a) submits a report to the Scottish Ministers under sub-paragraph (4), and
 - (b) considers that the report could be relevant to matters that are the responsibility of the Lord Chancellor or the Welsh Ministers,
- the Council must send a copy of the report to the Lord Chancellor or (as the case may be) the Assembly.
- (6) The Scottish Ministers must lay before the Scottish Parliament any report submitted to them under sub-paragraph (4).
- (7) In sub-paragraph (3)(a) “the administrative justice system” has the meaning given by paragraph 13(4).

Referral of matters to, and reports by, the Welsh Committee

- 19 (1) The Council may not make a report on any matter relating only to Wales until the Council—
- (a) has referred the matter of the report for consideration, and report to the Council, by the Welsh Committee, and
 - (b) has considered the report of the Committee.
- (2) Where the Council proposes to make a report on a matter that relates to Wales but not only to Wales, the Council must give the Welsh Committee details of the matter.
- (3) The Welsh Committee may of its own motion make a report to the Council on any of the following matters so far as relating to Wales—

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- (a) any matter relating to the administrative justice system,
 - (b) the constitution or working—
 - (i) of listed tribunals in general or of a particular listed tribunal, or
 - (ii) of statutory inquiries in general or of statutory inquiries of a particular description,
 - (c) any other matter—
 - (i) that relates to listed tribunals in general, to a particular listed tribunal, to statutory inquiries in general, to statutory inquiries of a particular description or to any particular statutory inquiry, and
 - (ii) that the Welsh Committee determines to be of special importance, and
 - (d) any matter referred to the Council under paragraph 14(1)(c) or 15(c).
- (4) If—
- (a) the Council does not make a report on matters dealt with in a report made by the Welsh Committee under sub-paragraph (1) or (3), or
 - (b) in making a report on those matters, the Council does not adopt the report made by the Welsh Committee without modification,
- the Welsh Committee may submit its report to the Welsh Ministers.
- (5) Where the Welsh Committee—
- (a) submits a report to the Welsh Ministers under sub-paragraph (4), and
 - (b) considers that the report could be relevant to matters that are the responsibility of the Lord Chancellor or the Scottish Ministers,
- the Council must send a copy of the report to the Lord Chancellor or (as the case may be) the Scottish Ministers.
- (6) The Welsh Ministers must lay before the National Assembly for Wales any report submitted to them under sub-paragraph (4).
- (7) In sub-paragraph (3)(a) “the administrative justice system” has the meaning given by paragraph 13(4).

The Council's programme of work

- 20 (1) The Council must formulate, in general terms, a programme of the work that the Council plans to undertake in carrying out its functions.
- (2) The Council must—
- (a) keep the programme under review, and
 - (b) revise it when appropriate.
- (3) In discharging its duties under sub-paragraphs (1) and (2), the Council must have regard to—
- (a) the work of the Civil Justice Council,
 - (b) the work of the Social Security Advisory Committee, and
 - (c) the work of the Industrial Injuries Advisory Council.
- (4) The Council must send a copy of the programme, and a copy of any significant revisions to the programme, to—
- (a) the Lord Chancellor,

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- (b) the Welsh Ministers, and
- (c) the Scottish Ministers.

Annual reports

- 21 (1) The Council must make an annual report on the proceedings of the Council to—
- (a) the Lord Chancellor,
 - (b) the Scottish Ministers, and
 - (c) the Welsh Ministers.
- (2) The Scottish Committee must make an annual report to the Scottish Ministers on the proceedings of the Scottish Committee.
- (3) The Welsh Committee must make an annual report to the Welsh Ministers on the proceedings of the Welsh Committee.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report made under sub-paragraph (1).
- (5) The Scottish Ministers must lay before the Scottish Parliament a copy of any report made under sub-paragraph (1) or (2).
- (6) The Welsh Ministers must lay before the National Assembly for Wales a copy of any report made under sub-paragraph (1) or (3).

Right to attend proceedings

- 22 (1) A member of any of—
- (a) the Council,
 - (b) the Scottish Committee, and
 - (c) the Welsh Committee,
- may attend (as observer) proceedings of a listed tribunal or of a statutory inquiry.
- (2) The right under sub-paragraph (1) applies even in respect of proceedings—
- (a) taking the form of a hearing held in private, or
 - (b) not taking the form of a hearing.
- (3) The right under sub-paragraph (1) is subject to any statutory provision by which members of the Council, members of the Scottish Committee or members of the Welsh Committee are expressly excluded from proceedings.

Application to Northern Ireland

- 23 Nothing in paragraphs 13 to 15 authorises or requires the Council to deal with a matter if legislation providing for the matter would be within the legislative competence of the Northern Ireland Assembly.